

Abstract

Hedge commands

The diploma thesis focuses on the hedge commands with a purpose to evaluate whether this tool is necessary for efficient tax administration or it is an institute which excessively and disproportionately infringes fundamental rights of tax entities protected by the Constitution. The thesis introduces chosen fundamental principles of the tax administration which may be applied in the tax security proceedings. Next, some relevant regulations of the Tax Code are summarized with emphasis on tax proceedings and some institutes of the tax payment followed by the legislation of a hedge command including procedural impacts and possible legislative amendments. The principal subject matter of the thesis is a study of selected interpretative problems of hedge command with respect to the case law of administrative courts and to the practice of the tax administration. These problems are namely its legal nature, necessary preconditions to its issuance, its liquidation character and procedural matters. The analysis made serves as a basis for the final part which deals with possibilities of defense against a hedge command in tax security, judicial and execution procedure which is completed by the inquiries of the ombudsman.

Hedge command gives the authority to a tax administrator to secure the tax in the moment when the tax is not due or set and there are reasoned concerns about its future uncollectability. This tool enables to secure the payment of the tax which could be a subject of tax frauds and could remain out of the public budget which is an adverse effect. The possibility to issue a hedge command is reasonable however it is necessary to respect the principle of the proportionality in the following proceedings and to apply only the procedures which enable the tax payment and simultaneously burden entitled interests of tax entities as little as possible. Therefore, it is desirable to prioritize other possible security institutes before the tax execution procedure which may result in a liquidation of the economic business of proper tax entities which is an adverse effect as well.

Key words: hedge commands, tax administration, defense in tax security proceedings